

(iii) Under either paragraph (b)(2)(i) or (b)(2)(ii) of this section, the article transferred, regardless of its origin (imported, manufactured, substituted, or any combination thereof), so designated on a certificate of delivery or, in the case of the manufacturer or producer of a qualified article under 19 U.S.C. 1313(a) or (b), on a certificate of manufacture and delivery, will be the qualified article eligible for drawback for purposes of section 1313(p), provided that the following conditions are met:

(A) The party who issues the applicable certificate for the transferred article must expressly state on the certificate that the certificate is prepared pursuant to 19 U.S.C. 1313(p) (the article may not be designated for any other drawback purposes);

(B) The party must certify to the Commissioner of Customs on the certificate or an attachment that it has not, and will not, designate on that certificate and on any other such certificates issued a quantity of the article greater than the amount eligible for drawback; and

(C) The party must certify to the Commissioner of Customs on the applicable certificate or on an attachment that it will maintain appropriate records which establish that it has not designated on any such certificates issued a greater quantity than the amount eligible for drawback.

(c) *Maintenance of records.* The manufacturer, producer, importer, transferor, exporter and drawback claimant of the qualified article and the exported article must all maintain their appropriate records required by this part.

[T.D. 98-16, 63 FR 11006, Mar. 5, 1998, as amended by T.D. 02-16, 67 FR 16637, Apr. 8, 2002]

§ 191.176 Procedures for claims filed under 19 U.S.C. 1313(p).

(a) *Applicability.* The general procedures for filing drawback claims shall be applicable to claims filed under 19 U.S.C. 1313(p) unless otherwise specifically provided for in this section.

(b) *Administrative efficiency, frequency of claims, and restructuring of claims.* The procedures regarding administrative efficiency, frequency of claims, and restructuring of claims (as applica-

ble, see § 191.53 of this part) shall apply to claims filed under this subpart.

(c) *Imported duty-paid derivatives (no manufacture).* When the basis for drawback under 19 U.S.C. 1313(p) is imported duty-paid petroleum (not articles manufactured under 19 U.S.C. 1313(a) or (b)), claims under this subpart may be paid and liquidated if:

(1) The claim is filed on Customs Form 7551; and

(2) The claimant provides a certification stating the basis (such as company records, or customer's written certification), for the information contained therein and certifying that:

(i) The exported merchandise was exported within 180 days of entry of the designated, imported merchandise;

(ii) The qualified article and the exported article are commercially interchangeable or both articles are subject to the same 8-digit HTSUS tariff classification;

(iii) To the best of the claimant's knowledge, the designated imported merchandise, the qualified article and the exported article have not and will not serve as the basis of any other drawback claim;

(iv) Evidence in support of the certification will be retained by the person providing the certification for 3 years after payment of the claim; and

(v) Such evidence will be available for verification by Customs.

(d) *Derivatives manufactured under 19 U.S.C. 1313(a) or (b).* When the basis for drawback under 19 U.S.C. 1313(p) is articles manufactured under 19 U.S.C. 1313(a) or (b), claims under this section may be paid and liquidated if:

(1) The claim is filed on Customs Form 7551;

(2) All documents required to be filed with a manufacturing claim under 19 U.S.C. 1313(a) or (b) are filed with the claim;

(3) The claim identifies the specific refinery or production facility at which the derivatives were manufactured or produced;

(4) The claim states the period of manufacture for the derivatives; and

(5) The claimant provides a certification stating the basis (such as company records or a customer's written certification), for the information contained therein and certifying that:

(i) The exported merchandise was exported during the manufacturing period for the qualified article or within 180 days after the close of that period;

(ii) The qualified article and the exported article are commercially interchangeable or both articles are subject to the same 8-digit HTSUS tariff classification;

(iii) To the best of the claimant's knowledge, the designated imported merchandise, the qualified article and the exported article have not and will not serve as the basis of any other drawback claim;

(iv) Evidence in support of the certification will be retained by the person providing the certification for 3 years after payment of the claim; and

(v) Such evidence will be available for verification by Customs.

Subpart R—Merchandise Transferred to a Foreign Trade Zone From Customs Territory

§ 191.181 Drawback allowance.

The fourth proviso of § 3 of the Foreign Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81c), provides for drawback on merchandise transferred to a foreign trade zone for the sole purpose of exportation, storage or destruction (except destruction of distilled spirits, wines, and fermented malt liquors), provided there is compliance with the regulations of this subpart.

§ 191.182 Zone-restricted merchandise.

Merchandise in a foreign trade zone for the purposes specified in § 191.181 shall be given status as zone-restricted merchandise on proper application (see § 146.44 of this chapter).

§ 191.183 Articles manufactured or produced in the United States.

(a) *Procedure for filing documents.* Except as otherwise provided, the drawback procedures prescribed in this part shall be followed as applicable to drawback under this subpart on articles manufactured or produced in the United States with the use of imported or substituted merchandise, and on flavoring extracts or medicinal or toilet preparations (including perfumery) manufactured or produced with the use of domestic tax-paid alcohol.

(b) *Notice of transfer.* (1) *Evidence of export.* The notice of zone transfer on Customs Form 214 shall be in place of the documents under subpart G of this part to establish the exportation.

(2) *Filing procedures.* The notice of transfer, in triplicate, shall be filed with the drawback office where the foreign trade zone is located prior to the transfer of the articles to the zone, or within 3 years after the transfer of the articles to the zone. A notice filed after the transfer shall state the foreign trade zone lot number.

(3) *Contents of notice.* Each notice of transfer shall show the:

(i) Number and location of the foreign trade zone;

(ii) Number and kind of packages and their marks and numbers;

(iii) Description of the articles, including weight (gross and net), gauge, measure, or number; and

(iv) Name of the transferor.

(c) *Action of foreign trade zone operator.* After articles have been received in the zone, the zone operator shall certify on a copy of the notice of transfer the receipt of the articles (see § 191.184(d)(2)) and forward the notice to the transferor or the person designated by the transferor, unless the export summary procedure, provided for in § 191.73, is used. If the export summary procedure is used, the requirements in § 191.73 shall be complied with, as applicable. The transferor shall verify that the notice has been certified before filing it with the drawback claim.

(d) *Drawback entries.* Drawback entries shall be filed on Customs Form 7551 to indicate that the merchandise was transferred to a foreign trade zone. The "Declaration of Exportation" shall be modified as follows:

Declaration of Transfer to a Foreign Trade Zone

I, _____
(member of firm, officer representing corporation, agent, or attorney), of _____, declare that, to the best of my knowledge and belief, the particulars of transfer stated in this entry, the notices of transfer, and receipts are correct, and that the merchandise was transferred to a foreign trade zone for the sole purpose of exportation, destruction, or storage, not to be removed from the foreign trade zone for domestic consumption.

Dated: _____